Modified PTO/SB/33 (10-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number Q76973	
	Application Number 10/647,255	Filed August 26, 2003
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	First Named Inventor Gerard VERGNAUD	
	Art Unit 2154	Examiner Michael E. KEEFER

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Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

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October 22, 2007
Date

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Gerard VERGNAUD, et al.

Application. No.: 10/647,255

Confirmation No.: 3044

Filed: August 26, 2003

Docket No: Q76973

Group Art Unit: 2154

Examiner: Michael E. KEEFER

For: METHOD AND A SERVER FOR ALLOCATING LOCAL AREA NETWORK RESOURCES TO A TERMINAL ACCORDING TO THE TYPE OF INVENTION

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated June 21, 2007, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claim Rejections Under 35 U.S.C. § 103

Claims 1-16, 21-23, 25 and 27-42 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. 2002/0075844 A1 to Hagen ("Hagen") in view of U.S. Patent 6,408,336 to Schneider ("Schneider"). Applicant traverses this rejection for at least the following reasons.

Claim 1 requires "control means adapted to classify the terminals into a first group or a second group according to whether or not they are adapted to establish with said local area network communications encrypted in accordance with at least one format." (emphasis added.) The Examiner contends that the combination of Hagen in view of Schneider teaches the above quoted element of claim 1.

In the Advisory Action of October 2, 2007, the Examiner states that "Schneider clearly uses encryption as a standard for determining access to resources." The Examiner quotes in support of this argument Schneider at col. 10, lines 9-22, which states that "[t]he trust level of a request has a number of components: . . . if the access request is encrypted, the trust level of the encryption technique used; the stronger the encryption technique the higher the trust level." Thus, Schneider discusses use of a "trust level" required to access a resource, the trust level having a number of components, including "the trust level of the encryption used."

Applicant respectfully submits that the "trust level" of Schneider is distinguishable from claim 1, which requires classification of terminals "according to whether or not they are adapted to establish . . . communications encrypted in accordance with at least one format."

The portion of Schneider cited by the Examiner teaches that the "trust level" is based on multiple factors, one of which, for example, is "the identification technique used to identify the user."

Thus, in Schneider, access to the resource in question may clearly be allowed in the case that an identification technique having a high trust level is used, even without the use of encryption. Furthermore, in Schneider, even when encryption is used, access to the resource

may be denied when the identification technique or the path taken by the request have a low trust level. Moreover, it is not even the use of encryption itself, but rather, the "trust level of the encryption technique" in Schneider which is considered. (emphasis added.) Thus, even when encryption is used in Schneider, access to the resource may be denied because the encryption technique has a low trust level.

In contrast, claim 1 requires that classification of the terminals be "according to whether or not they are adapted to establish" encrypted communications. (emphasis added.) This requirement of claim 1, therefore, clearly is a different method of classification resulting in significantly different results than the method of Schneider. The mere fact that the "trust level of the encryption technique" is considered in Schneider is, therefore, not sufficient to teach that Schneider classifies terminals identically to the method required by claim 1.

Thus, Hagen and Schneider, alone or in combination, fail to teach or suggest each and every element of claim 1. The cited references, therefore, fail to render claim 1 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of independent claim 1 and its dependent claims 2-27.

Independent claim 28, which recites features similar to those of independent claim 1, is therefore also patentable at least for reasons analogous to those presented above with respect to claim 1. The Examiner's citation of Comer, "Internetworking with TCP/IP Vol. 1," fails to make up for the above described deficiencies of Schneider, as Comer is cited merely for its alleged teaching of a cabled interface, i.e., Ethernet, and of a wireless LAN. Thus, the combined references, taken as a whole for what they would have suggested to one of ordinary skill in the

art at the time of invention, fail to render claim 28 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of independent claim 28 and it's dependent claims 29-44.

Respectfully submitted,

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